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SB

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/412,362 10/05/99 JENDICK

M PM256642

EXAMINER

QM12/0705

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HUYNH, I
ART UNIT

PAPER NUMBER

3721

DATE MAILED:

18
07/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/412,362

Applicant(s)

JENDICK, MANFRED

Examiner

Louis K. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 44-57, 61-76 and 80-91 is/are rejected.
- 7) ☒ Claim(s) 58-60 and 77-79 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

1. Applicant's first submission after final filed on May 22, 2001 has been entered in view of a copy of the PCT/SE99/00692, from which this application is a continuation, received on June 13, 2001 and a fee for a two-month extension paid on June 19, 2001. The claimed priority date has been established. As a result, US 6,080,958 to Miller et al. has been invalidated as a prior art and the Final Rejection mailed on Jan 23, 2001 is hereby withdrawn.

A new ground of rejection as followed:

Claim Objections

2. Claims 87 and 88 should be rewritten in an independent form for the claims are drawn to different scopes of invention; in particular to a can end and a can respectively, and are not further limiting the claim from which they depend.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 44, 56-57, 61-64, 74-76 and 81-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubacki et al. (4,476,781) in view of Carlson (4,375,025).

Kubacki et al. disclose an apparatus and a method of manufacturing opening tabs to be attached to ends of cans including the steps of: intermittently feeding (column 8, line 37-45) a metal strip (10) into a forming unit (column 4, lines 26-29) for forming opening tabs (Figure 1); and providing a marking (20) on a surface of the metal strip using a high speed stamping device

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controlled by a computer (column 5, line 66 – column 6, line 15). The method of Kubacki meets all of applicant's claimed subject matter but lacks the specific teaching of the marking being provided from a laser unit.

Carlson discloses an apparatus and a method using a laser beam (32) produced from a laser source (29) known to a skilled person in the art for marking metal strip (column 2, lines 12-15) at high speed with precision (column 1, line 49-51).

It would have been obvious to a person with an ordinary skill in the art, at the time of the invention, to have modified the apparatus and the method of Kubacki et al. by using a laser unit, as taught by Carlson, in order to provide marking on the metal strip at high speed with precision.

With respect to claims 45 and 64, the exact depth of the laser marking is obvious as a matter of engineering choice since it does not solve any stated problem and thus does not patentably distinguish from the applied prior art.

5. Claims 46 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubacki et al. (4,476,781) in view of Carlson (4,375,025) as applied to claims 44 and 63 above, and further in view of Kwon (6,160,835).

The modified apparatus and method of Kubacki et al. using a laser unit of Carlson for marking metal strip meets all of applicant's claimed subject matter but lacks the specific teaching of the laser engravings being generated using a beam of laser radiation in the near IR (infrared) wavelength range. However, Kwon teaches a preferred method of laser engraving using a laser beam in the near IR wavelength range (col. 6, lines 44-56) for marking metal. Therefore, it would have been obvious to a person with an ordinary skill in the art, at the time of the

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invention, to have further modified the apparatus and method of Kubacki et al. by generating a laser beam in the near IR wavelength range, as taught by Kwon, for marking metal strip.

6. Claims 47-55 and 66-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubacki et al. (4,476,781) in view of Carlson (4,375,025), further in view of Kwon as applied to claims 46 and 65 above, and further in view of Kobsa (6,163,010).

The apparatus and method of Kubacki et al. modified by Carlson and further modified by Kwon meets all of applicant's claimed subject matter but lacks the specific teaching of a diode laser pumped Nd:YAG laser.

Kobsa discloses a laser system for laser cutting materials comprising: a diode laser pumped Nd:YAG; a laser cavity defined by two end mirrors; and optical elements for improving the laser beam quality; lens system for expanding, collimating, and focusing the laser beam; wherein the optical elements are for selecting modes such as TEM₀₀ (col. 2, line 48-59).

It would have been obvious to a person with an ordinary skill in the art, at the time of the invention, to have further modified the Miller et al. method and apparatus by providing a diode laser pumped Nd:YAG laser system, as taught by Kobsa, so that the generated laser beam can be adjusted properly in order to mark high quality markings on the metal strip.

Note that the Kobsa diode pumped laser Nd:YAG laser system generates the laser beam in the form of pulsed laser radiation (col. 3, lines 15-67). Further, the Kobsa laser system operates with a wavelength of 1.064 mm (col. 3, line 67) which is substantially the IR wavelength.

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Allowable Subject Matter

7. Claims 58-60 and 77-79 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (703) 306-5694. The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (703) 308-1789. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

LH
June 30, 2001

A handwritten signature in black ink, appearing to read 'PETER VO', with a long horizontal line extending to the right.

**PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700**